

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lauren Holley

(b) County of Residence of First Listed Plaintiff **Philadelphia County, PA**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Law Office of William J. Faust, II
1301 S. Broad St., Suite 205, Philadelphia, PA 19147
215-334-4313

DEFENDANTS

DSW

County of Residence of First Listed Defendant **Franklin County, OH**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Kane, Pugh, Knoell, Troy & Kramer, LLP
510 Swede Street, Norristown, PA 19401
610-275-2000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:
Slip and Fall

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

Mar 23, 2022

SIGNATURE OF ATTORNEY OF RECORD

/s/ Justin A. Bayer, Esq.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LAUREN HOLLEY

Plaintiff,

v.

DSW, DESIGNER SHOW WAREHOUSE,
DSW, INC.; WYNNEWOOD SHOPPING
CENTER; AND FEDERAL REALTY
INVESTMENT TRUST

Defendants.

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CIVIL ACTION
NO.:

NOTICE TO PLAINTIFF

TO: William J. Faust II, Esq.
LAW OFFICE OF WILLIAM J. FAUST II
1301 S. Broad Street, Suite 205
Philadelphia, PA 19147
attyfaust@yahoo.com

PLEASE TAKE NOTICE that Defendant Designer Brands, Inc., improperly identified as “DSW”, Designer Shoe Warehouse”, and “DSW, Inc.” have filed a Petition in the United States District Court for the Eastern District of Pennsylvania for the removal of an action now pending in the Philadelphia Court of Common Pleas, captioned *Lauren Holley, v. DSW, et al*, Docket No. 2202-01917.


PLEASE TAKE FURTHER NOTICE that Defendant has at the same time filed with the United States District Court for the Eastern District of Pennsylvania a copy of the Complaint served upon it, which was filed and entered in the Philadelphia Court of Common Pleas.

A copy of said Notice of Removal is attached hereto and is hereby served upon you.

KANE, PUGH, KNOELL, TROY & KRAMER, LLP

DATE: 03/23/2022

BY: _____



JUSTIN A. BAYER, ESQUIRE
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAUREN HOLLEY,	:	COURT OF COMMON PLEAS
Plaintiff,	:	PHILADELPHIA COUNTY
v.	:	
	:	CIVIL ACTION–LAW
DSW, DESIGNER SHOE WAREHOUSE,	:	
DSW, INC.; WYNNEWOOD SHOPPING	:	No. 220201917
CENTER; and FEDERAL REALTY	:	
INVESTMENT TRUST;	:	
Defendants.	:	
	:	

PETITION IN SUPPORT OF NOTICE OF REMOVAL OF
DEFENDANT DESIGNER BRANDS, INC.

Defendant, Designer Brands, Inc., improperly identified as “DSW”, Designer Shoe Warehouse”, and “DSW, Inc.”, by and through its attorneys, Kane, Pugh, Knoell, Troy & Kramer, LLP, gives notice of the removal of the above captioned action to this Court of a Civil Action pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, and in support thereof avers as follows:

1. A civil action has been brought against Defendant by the Plaintiff in the Court of Common Pleas of Philadelphia County at No. 220201917. A copy of that Complaint is attached hereto as Exhibit “A.”

2. This is an action over which the Court has original jurisdiction pursuant to 28 U.S.C. § 1332, because it is a civil action between citizens of different states and exceeds the required amount in controversy, exclusive of interest and costs pursuant to 28 U.S.C. § 1332.

3. The State Court where the action was originally filed is located in Philadelphia County, Pennsylvania, which is embraced within this judicial district.

4. The Plaintiff is, and at the time of the filing of this action, a citizen of the State of Pennsylvania.

5. Defendant, Designer Brands, Inc., is an Ohio corporation with a with a principal place of business in the State of Ohio.

6. Defendant, Federal Realty Trust Inc., is a Maryland Corporation with a principal place of business in Maryland.

7. Under 28 U.S.C. § 1441(b), in determining whether the Court has original jurisdiction based upon diversity of citizenship, the citizenship of any Defendant sued under a fictitious name is to be disregarded.

8. In her Complaint, Plaintiff alleges she sustained severe personal injuries and damages as customer in a store owned by Defendant. *See* Exhibit “A” at ¶ 6-10.

9. Thus, there is complete diversity of citizenship between Plaintiff and Defendant.

10. On March 16, 2022, Counsel for Defendant sent a letter to Plaintiff’s counsel to request that they sign a Stipulation to cap Plaintiff’s recoverable damages at \$75,000. *See* a copy of the March 16, 2022, letter to Plaintiff’s counsel attached hereto as Exhibit “B”.

11. To date, Plaintiff has not agreed to sign the Stipulation.

12. Upon information and belief, Defendant is filing said notice in compliance with the requirements under 28 U.S.C. § 1446(b).

13. By reason of the foregoing, a removal of the action to this Court is proper, under 28 U.S.C. §§ 1332(a), 1441(a).

14. The statutory requirements having been met; the state action is properly removed to United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

KANE, PUGH, KNOELL, TROY & KRAMER, LLP

BY: /s/ Justin A. Bayer
Justin A. Bayer, Esq.
510 Swede Street
Norristown, PA 19401
Phone: 610-275-2000
Fax: 610-275-2018
Email: jbayer@kanepugh.com
Attorney I.D. No. 93546
Attorney for Defendant
Designer Brands, Inc.

Dated: March 23, 2022

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LAUREN HOLLEY

Plaintiff,

v.

DSW, DESIGNER SHOW WAREHOUSE,
DSW, INC.; WYNNEWOOD SHOPPING
CENTER; AND FEDERAL REALTY
INVESTMENT TRUST

Defendants.

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CIVIL ACTION
NO.:

**DEFENDANT’S CERTIFICATE OF FILING OF COPY OF NOTICE OF REMOVAL
WITH THE STATE COURT**

I, Justin A. Bayer, Esquire, counsel for Defendants, hereby certify that a certified copy of Defendant Designer Brands, Inc., improperly identified as “DSW”, Designer Shoe Warehouse”, and “DSW, Inc.’s, Notice of Removal will be filed with the Prothonotary of the Philadelphia Court of Common Pleas, wherein is pending the State Court action which is the subject of the removal.

KANE, PUGH, KNOELL, TROY & KRAMER, LLP

DATE: 03/23/2022

BY: 

JUSTIN A. BAYER, ESQUIRE
Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Lauren Holley
v.
DSW, et. al

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CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

03/23/2022
Date

Justin A. Bayer, Esq.
Attorney-at-law

Defendant, Designer Brands, Inc.
Attorney for

610-275-2000
Telephone

610-275-2018
FAX Number

jbayer@Kanepugh.com
E-Mail Address

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 5050 Aspen Street, Philadelphia, PA 19139
 Address of Defendant: 80 W. Wynnewood Avenue, Wynnewood, PA 19096
 Place of Accident, Incident or Transaction: DSW Store in Wynnewood, PA

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 03/23/2022

A. G. B.
Attorney-at-Law / Pro Se Plaintiff

93546

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☐ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☐ 11. All other Federal Question Cases
 (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☒ 6. Other Personal Injury (Please specify): Slip and Fall
☐ 7. Products Liability
☐ 8. Products Liability – Asbestos
☐ 9. All other Diversity Cases
 (Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, _____, counsel of record or pro se plaintiff, do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
☐ Relief other than monetary damages is sought.

DATE: _____ Sign here if applicable
 Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.